

The article was alleged to be misbranded in that certain statements in the labeling, regarding its curative and therapeutic effects, falsely and fraudulently represented that it was effective to remove worms from horses, colts, and mules; to kill parasites; as a treatment, remedy, and cure for roundworms, pinworms, bloodworms, heaves, pneumonia, colic, and indigestion; and as a preventive of colic.

The information charged that the article was also misbranded in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1679 published under that act.

On February 13, 1939, the defendant entered a plea of nolo contendere. Sentence was deferred until April 10, 1939, on which date imposition of sentence was suspended and the defendant was placed on probation for a period of 8 months.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30604. Adulteration and misbranding of Absorbal refills. U. S. v. 89 Packages of One Reel Refill Absorbal. Default decree of condemnation and destruction. (F. & D. No. 44837. Sample No. 48072-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be contaminated with viable micro-organisms.

On February 17, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 89 packages of Absorbal refills at St. Paul, Minn.; alleging that the article had been shipped on or about October 22 and 24, 1938, by Edward Girvin, D. D. S., from Philadelphia, Pa.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, i. e., "Sterilized," since it was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the statements, "Re Sterilized after packaging" and "Edward Girvin, D. D. S., Blue Nurse Products," were false and misleading, since they created the impression that the article was sterile and suitable for dental use; whereas it was contaminated with viable micro-organisms.

On April 5, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30605. Adulteration and misbranding of digitalis tablets. U. S. v. Five Bottles and Two Bottles of Tablets Whole Leaf Digitalis. Default decrees of condemnation and forfeiture. (F. & D. No. 45907. Sample No. 31772-D.)

This product had a potency of not more than 60 percent of that declared on the label.

On March 14, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven bottles of digitalis tablets at Buffalo, N. Y.; alleging that the article had been shipped in interstate commerce on or about November 8, 1938, from Richmond, Va., by Wilber & Miskimon, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that the strength of the article fell below the professed standard or quality under which it was sold, namely, "Each tablet represents * * * 1½ grains (approx. 0.1 gram) of Digitalis Leaf," since each tablet was equivalent to not more than 0.9 grain of digitalis.

Misbranding was alleged in that the statement, "Each tablet represents * * * 1½ grains (approx. 0.1 gram) of Digitalis Leaf," was false and misleading, since it represented that each tablet contained 1½ grains of digitalis; whereas each tablet contained less than 1½ grains of digitalis.

On April 10, 1939, no claimant having appeared, judgment of condemnation and forfeiture was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30606. Adulteration and misbranding of Concentra Food. U. S. v. 800 Cartons of Concentra Food. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 43158. Sample No. 18957-D.)

This product was sold as a food but contained powdered rhubarb root, a drug. Moreover, its labeling bore false and fraudulent curative and therapeutic claims.

On July 30, 1938, the United States attorney for the Southern District of Cali-

fornia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 800 cartons of Concentra Food at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about July 3, 1938, from Chicago, Ill., by Jean Ferrell, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis indicated that the product consisted essentially of powdered rhubarb root, some dried extractive material, soya bean tissues, and Irish moss tissues.

The article was alleged to be adulterated under the provisions of the law applicable to food in that a product containing rhubarb root, a drug, had been substituted wholly or in part for an article which purported to be a food.

It was alleged to be misbranded under the provisions of the law applicable to food in that the following statements appearing on top and side of carton, and in circular and leaflet in shipping case, were false and misleading and tended to deceive and mislead the purchaser by implying that the article was a food; whereas the article was not a food in that it consisted essentially of powdered rhubarb root, a drug: (Top of carton) "Concentra Food A Food Product"; (side of carton) "Concentra-Food Not a Medicine A Food Product is a concentrated, dehydrated vegetable and fruit compound containing Rhubarb, which furnishes the body a nutritional supplement, with the natural mineral element required for proper conditioning in a form whereby they are most easily assimilated"; (circular in shipping case) "Concentra Food * * * Concentra Food is a Pure Food"; (leaflet in shipping case) "Concentra Food Concentra Food is as the name implies, a highly concentrated, dehydrated food. This food is in capsule form and contains Rhubarb, Soya Bean Meal, Irish Sea Moss, Gravel Root, and Dehydrated Cranberries. There are sixteen elements in the body: oxygen, carbon, hydrogen, calcium, nitrogen, phosphorus, chlorin, sulphur, fluorin, potassium, iodine, iron, magnesium, silicon, manganese, and sodium. These sixteen elements must be furnished to the body in organic form through foods, for it is only through foods that the body is built and rebuilt. If there is an over-supply or a deficiency of these elements in the body, then that body is either too fat or too thin and needs correcting. Concentra Food answers these requirements perfectly as a highly concentrated balanced dietetic aid for the furnishing of a corrective organic element. * * * The Dehydrated Cranberries complete a balanced food, so you do not run the risk of vitamin or mineral starvation. Concentra Food aids the correcting of body elements. It will in time balance the diet by adding the deficient organic elements and vitamins."

The article was alleged to be misbranded under the provisions of the law applicable to drugs in that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Circular) "Several dozen capsules taken by a child at one time causes no ill effects. The greater the disturbance in the body the more Concentra Food one should take. * * * Take nothing for bodily ailments while on Concentra Food"; (leaflet) "The Rhubarb corrects the elimination of poisons from the body. If there is poison in our body, then the rhubarb may act as a physic, but after the elimination of this poison it brings about a normal daily action. It is not what we eat that causes incorrect balance of our body, but what we do not eliminate properly. * * * is an excellent diabetic food. It is very good for infants with the summer diarrhea. * * * The Gravel Root is a cleanser for our kidneys, thereby eliminating all poisons accumulated in the kidneys, just as the rhubarb does for the alimentary tract. * * * Concentra Food * * * will in time balance the diet by adding the deficient organic elements and vitamins, starting the elimination of gases, poisons, toxins and water deposits. Through the perfect balanced nutrition and proper elimination a natural, normal figure is developed and health is expressed in the hair, eyes, skin and voice."

On August 12, 1938, the consignee, Oscar J. Fehsel, Los Angeles, Calif., filed an answer denying jurisdiction of the court and moved to dismiss the libel on said ground. On November 12, 1938, the motion to dismiss having been submitted to the court on the record and briefs, the motion was denied. On March 13, 1939, Fehsel filed a disclaimer and withdrew his answer.

On March 13, 1939, pursuant to a stipulation and order vacating the default theretofore entered against Jean Ferrell, Inc., claim and answer was filed by Jean Ferrell, Inc., admitting the allegations of the libel and consenting to the entry of a decree; and on the same date judgment of condemnation was entered

and the product was ordered released under bond conditioned that it be re-labeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30607. Misbranding of Kalo Santonin. U. S. v. Five Cans and Three Cans of Kalo Santonin Round Worm Expeller for Hogs. Default decree of condemnation and destruction. (F. & D. No. 44945. Sample No. 53057-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims; and the name "Kalo Santonin" was misleading since the article contained but a small proportion of santonin.

On March 4, 1939, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight cans of Kalo Santonin at West Liberty, Iowa; alleging that the article had been shipped in interstate commerce on or about June 30, 1938, from Quincy, Ill., by Kalo Co.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample showed that it consisted essentially of sodium bicarbonate, areca nut, santonin (1.2 percent), calomel, and oil of anise.

The article was alleged to be misbranded in that the name "Kalo Santonin" was false and misleading when applied to an article containing only a small proportion of santonin. It was alleged to be misbranded further in that the following label statements regarding its curative or therapeutic effect were false and fraudulent: "Round worm expeller for hogs * * * for Herd treatment"; "This package will treat 16 head of 50 lb. pigs. For larger or smaller pigs feed in proportion"; and "For individual treatment Give one level teaspoonful for each 20 lbs. of pig's weight."

On May 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30608. Misbranding of Fatherland Tea. U. S. v. 22 Packages of Fatherland Tea. Default decree of condemnation and destruction. (F. & D. No. 44163. Sample No. 31517-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims; moreover, the product was falsely represented to be of German origin.

On October 20, 1938, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 packages of Fatherland Tea at Wheeling, W. Va.; alleging that the article had been shipped in interstate commerce on or about May 2, 1938, from Pittsburgh, Pa., by Charles Stern; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article showed that it consisted essentially of senna leaves, chamomile flowers, fennel seed, juniper berries, dog grass, and buchu leaves.

It was alleged to be misbranded in that its name, "Fatherland Tea," and the following statements variously appearing in the labeling were false and misleading, since it was not of German origin: (English) "The Great German Herb Medicine": (German) "The Celebrated German Herbs Medicine Fatherland Tea is a mixture of 18 German Herbs collected in all parts of Germany," and "The Celebrated German Herb Medicine." Misbranding was alleged further in that the following statements in the labeling, regarding the curative or therapeutic effect of the article, were false and fraudulent: (English) "For all Diseases of the Blood, Liver, Kidneys and Stomach * * * Is a remedy for Liver and Kidney Complaint, Bilioussness, Dyspepsia, Sick Headache, Nervous Debility, Palpitation of the Heart, Flatulency, Malaria, Fever and Ague, Chills, Pain and Weakness of the Sight, Back and Sides, Loss of Appetite, * * * Blotches, Pimples, Rheumatism, Female Complaints. * * * And All Impurities of the blood"; (German) "If used according to directions, Fatherland Tea is a remedy for diseases of the Liver, Stomach and Kidneys, such as: * * * Headache, Palpitation of the Heart, Pochen, Rheumatism, Pain in the Back and Sides, Weakness of the Eyes, Female Diseases and All Impurities of the Blood"; (English) "A Remedy for all Diseases of the Kidneys, Liver, Stomach and Blood Such as Dyspepsia, Bilioussness, Sick Headache, Nervous Debility, Palpitation of the Heart, Malaria, Fever and Ague, Chills, Weakness